

TOWN OF SPRINGERVILLE
PLANNING AND ZONING COMMISSION
AGENDA
TUESDAY, AUGUST 24, 2021 at 6:00 PM
TOWN OF SPRINGERVILLE COUNCIL CHAMBERS

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the Springerville Planning and Zoning Commission and to the general public, that the Commission will hold a meeting open to the public at the at the Springerville Town Hall Council Chambers, 418 E. Main St., Springerville, Arizona on August 24, 2021 at 6:00 PM.

The Planning and Zoning Commission reserves the right to adjourn into Executive Session in accordance with Arizona Revised Statutes Section 38-431.03 (A)(3) and (4) for legal consultation on any of the following agenda items.

1. **CALL TO ORDER**
2. **ROLL CALL:** Members of the Planning and Zoning Commission or Legal Council that are unable to be present in person at a scheduled meeting may participate in the meeting by telephone.
3. **CONSENT ITEM:**
 - a. **Consider approval of the August 10, 2021 regular Planning and Zoning Commission meeting minutes.**
4. **PUBLIC PARTICIPATION:** Non-agenda items presented during the public participation portion of this agenda cannot be acted on at this time by the Commission. Individual commission members may ask questions of the public or ask staff to review the matter, or defend themselves, but are prohibited by State of Arizona Open Meeting Laws from discussing the item among themselves until the item is noticed according to open meeting requirements as an agenda item. The Chair MAY allow public comment on agenda items, and will limit time of discussion to three (3) minutes per person, with no longer than ten (10) minutes per topic.
5. **PUBLIC HEARING:** Discussion and possible action regarding going into a public hearing to take commission and public comments regarding amending Title 17 (Zoning) of the Town Code in accordance with proposed Ordinance No. 2021-002. The proposed amendments are related to the regulation of recreational marijuana. The Commission will consider adding Section 17.28.220-Marijuana Establishments and Other Marijuana-Based Land Uses to Chapter 17.28-General Provisions; amending Chapter 17.68 C1 Zone-General Commercial Section 17.68.030-Conditional Uses (Conditional Use Permit Required) by replacing Paragraph V; and amending Chapter 17.76 I1 Zone-Industrial Section 17-76.03-Conditional Uses (Conditional Use Permit Required) by revising paragraphs A and B.
 - a. **considering amending Title 17 (Zoning) of the Town Code in accordance with proposed Ordinance No. 2021-002. The proposed amendments are related to the regulation of recreational marijuana.**
6. **ZONING ADMINISTRATOR'S REPORT:** Summary reports will be made as necessary. No action will be taken on any matters mentioned unless listed on the agenda.
7. **LIAISON REPORT:** Council Liaison report.

OLD BUSINESS

8. None.

NEW BUSINESS

9. Discussion and possible action regarding amending Title 17 (Zoning) of the Town Code in accordance with proposed Ordinance No. 2021-002. The proposed amendments are related to the regulation of recreational marijuana. The Commission will consider adding Section 17.28.220-Marijuana Establishments and Other Marijuana-Based Land Uses to Chapter 17.28-General Provisions; amending Chapter 17.68 C1 Zone-General Commercial Section 17.68.030-Conditional Uses (Conditional Use Permit Required) by replacing Paragraph V; and amending Chapter 17.76 I1 Zone-Industrial Section 17-76.03-Conditional Uses (Conditional Use Permit Required) by revising paragraphs A and B.

10. **ADJOURNMENT**

SUBMITTED BY:

Tim Rasmussen

August 16, 2021

Americans with disabilities act (A.D.A.): The Town of Springerville intends to comply with A.D.A. If you are physically challenged or disabled and need special accommodations to participate in this town meeting, please contact the Town Clerk forty-eight (48) hours prior to the meeting to arrange necessary accommodations.

POSTED BY:



Stormy Palmer, Administrative Assistant

8/16/2021
Date

CURRENT ORDINANCE

ORDINANCE 2011-003

AN ORDINANCE OF THE TOWN OF SPRINGERVILLE, ARIZONA, ADOPTING THE PUBLIC DOCUMENT ENTITLED "MEDICAL MARIJUANA REGULATIONS" ADOPTED BY REFERENCE; SUPERSEDING ORDINANCE 2011-002; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY:

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF SPRINGERVILLE, ARIZONA AS FOLLOWS:

Section 1. That certain public document known as "Medical Marijuana Regulations," three copies of which are on file in the office of the town clerk of the Town of Springerville, Arizona, which document was made a public record by Resolution No. 2011-R002 of the Town of Springerville, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance.

Section 2: SEVERABILITY

If any part of the zoning ordinance of the town of Springerville is found to be invalid or unconstitutional by any court, such action shall not apply to this title as a whole, but only to that specific part, and it is intended and declared that all parts of said zoning ordinance of the town of Springerville not expressly declared to be invalid or unconstitutional shall continue in full force and effect notwithstanding so much thereof as may be declared to be invalid or unconstitutional.

Section 3. This Ordinance shall become effective immediately on its passage this 18th day of May, 2011.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Springerville, Arizona, this 18th day of May 2011.

TOWN OF SPRINGERVILLE


Eric Baca, Mayor

ATTEST:


Valentina Cordova, Town Clerk

APPROVED AS TO FORM:


Timothy Shaffery, Shaffery Law Group

Medical Marijuana Ordinance

Add the following definitions to Section 17.08 Definitions:

Medical Marijuana: Means of all parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patients debilitating medical condition or symptoms associated with the patients medical condition.

Medical Marijuana Cultivation: The process by which a person grows a marijuana plant. A facility shall mean a building, structure or premises used for the cultivation or storage of medical marijuana this is physically separate and off-site from a medical marijuana dispensary.

Medical Marijuana Dispensary: A non-profit entity defined in A.R.S. 36-2801 (11), that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.

Medical Marijuana Manufacturing Facility: A facility that incorporates medical marijuana (cannabis) by means of cooking, blending, or incorporation into consumable/edible goods.

Medical Marijuana Qualifying Patient: A person who has been diagnosed by a physician as having a debilitating medical condition as defined by A.R.S. 36-2801.13.

Add the following to AG, General Agricultural, and renumber as needed:

17.32.030 In the AG zone, the following uses require a conditional use permit:

- L. Medical Marijuana Cultivation, subject to the following conditions and limitations:
 - a. Applicant shall provide:
 - 1. The name(s) and location(s) of the offsite medical marijuana dispensary associated with the cultivation operation.
 - 2. A copy of the operating procedures adopted in compliance with A.R.S. 36-2804(B)(1)(c) and
 - 3. A survey sealed by a registered land surveyor the location of the nearest medical marijuana dispensary or cultivation location if within 500 feet.
 - b. Retail sales of medical marijuana is prohibited.
 - c. Shall not be located within 200 feet of the same type of use or a medical marijuana dispensary. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.
 - d. Shall not be located within 200 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the cultivation business is conducted or

proposed to be conducted to the property line of the residentially zoned property.

- e. Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school, or 200 feet from a place of worship, public-park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.

M. Any such other uses which are determined by minute order of the planning and zoning commission to be similar to those uses listed in this section and not detrimental to the public health, safety and general welfare.

Add the following to C-1, General Commercial, and renumber as needed:

17.68.030 In the C-1 zone, the following uses require a conditional use permit:

V. Medical Marijuana Dispensary (No Cultivation), subject to the following conditions and limitations:

1. Applicant shall provide:
 - a. the name(s) and location(s) of the offsite medical marijuana dispensary associated with the cultivation operation.
 - b. a copy of the operating procedures adopted in compliance with A.R.S. 36--2804(B)(1)(c) and
 - c. a survey sealed by a registered land surveyor showing the location of the nearest medical marijuana dispensary or cultivation location if within 200 feet.
 - d. a site plan, floor plan, building permits for occupancy change, and a security plan.
2. Shall be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
3. Shall not be larger than a maximum of 1000 gross square feet.
4. Shall not be located within 200 feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are being conducted or proposed to be conducted.
5. Shall not be located within 200 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the residentially zoned property.
6. Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school; or 200 feet of a place of worship, public-park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.
7. Shall have operating hours not earlier than 10:00 a.m. and not later than 7:00 p.m.
8. Drive-through services are prohibited.
9. Cultivation of medical marijuana is prohibited.

10. Shall provide for proper disposal of marijuana remnants or by-products, and not to be placed within the facility's exterior refuse containers.

W. Any such other uses which are determined by minute order of the planning and zoning commission to be similar to those listed in this section and not detrimental to the public health, safety and general welfare.

Add the following to I-1, Industrial Zone, and renumber as needed:

18.60.030 Conditional uses.

In the I-1 zone, the following uses require a conditional use permit:

1. Medical Marijuana Cultivation, subject to the following conditions and limitations:

a. Applicant shall provide:

1. The name(s) and location(s) of the offsite medical marijuana associated with the cultivation operation.

2. A copy of the operating procedures adopted in compliance with A.R.S. 36--2804(B)(1)(c) and

3. A survey sealed by a registered land surveyor showing the location of the nearest medical marijuana dispensary or cultivation location if within 200 feet.

b. Shall be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.

c. Shall not be larger than a maximum of 1000 gross square feet.

d. Shall not be located within 200 feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are being conducted or proposed to be conducted.

e. Shall not be located within 200 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the residentially zoned property.

f. Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school; or within 200 feet of a place of worship, public-park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.

g. Shall have operating hours not earlier than 10:00 A.M. and not later than 7:00 P.M.

h. Drive-through services are prohibited.

2. Medical Marijuana Infusion Manufacturing Facility

a. Applicant shall provide:

1. Name and location of the offsite cultivation location, if applicable.

2. A copy of the operating procedures adopted in compliance with A.R.S. 36--2804(B)(1)(c).

3. A survey sealed by a registered land surveyor showing the location of the nearest medical marijuana dispensary or cultivation location if within 200 feet.

b. Shall not be located within 200 feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are being conducted or proposed to be conducted.

c. Shall not be located within 200 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the residentially zoned property.

d. Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school; or within 200 feet of a place of worship, public-park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.

e. There shall be no emission of dust, fumes, vapors, or odors into the environment from the facility.

3. Any such other uses which are determined by minute order of the planning and zoning commission to be similar to those uses listed in this section and not detrimental to the public health, safety and general welfare.

Chapter 17.112

MEDICAL MARIJUANA

Medical Marijuana Definition

Means of all parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patients debilitating medical condition or symptoms associated with the patients medical condition.

Medical Marijuana Manufacturing Facility

A facility that incorporates medical marijuana (cannabis) by means of cooking, blending, or incorporation into consumable/edible goods.

Medical Marijuana Qualifying Patient

A person who has been diagnosed by a physician as having a debilitating medical condition as defined by A.R.S. 36--2801.13.

Medical Marijuana Cultivation:

The process by which a person grows a marijuana plant. A facility shall mean a building, structure or premises used for the cultivation or storage of medical marijuana this is physically separate and off-site from a medical marijuana dispensary.

Medical Marijuana Cultivation, subject to the following conditions and limitations:

- A. Applicant shall provide:
 1. The name(s) and location(s) of the offsite medical marijuana dispensary associated with the cultivation operation.
 2. A copy of the operating procedures adopted in compliance with A.R.S. 36--2804(B)(1)(c) and
 3. A survey sealed by a registered land surveyor the location of the nearest medical marijuana dispensary or cultivation location if within 500 feet.
- B. Retail sales of medical marijuana is prohibited.
- C. Shall not be located within 200 feet of the same type of use or a medical marijuana dispensary. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are conducted or proposed to be conducted.
- D. Shall not be located within 200 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the residentially zoned property.
- E. Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school, or 200 feet from a place of worship, public-park or community center. This distance shall

be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.

I-1, Industrial Zone & In the C-1 zone, the following uses require a conditional use permit: Conditional uses. In the I-1 and C-1 zone, the following uses require a conditional use permit:

A. Medical Marijuana Cultivation, subject to the following conditions and limitations:

- 1) Applicant shall provide:
 - a. The name(s) and location(s) of the offsite medical marijuana associated with the cultivation operation.
 - b. A copy of the operating procedures adopted in compliance with A.R.S. 36--2804(B)(1)(c) and
 - c. A survey sealed by a registered land surveyor showing the location of the nearest medical marijuana dispensary or cultivation location if within 200 feet.
- 2) Shall be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
- 3) Shall not be larger than a maximum of 1000 square feet.
- 4) Shall not be located within 200 feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are being conducted or proposed to be conducted.
- 5) Shall not be located within 200 feet of a residentially zoned property. ~~This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the residentially zoned property.~~
- 6) Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school; or within 200 feet of a place of worship, public-park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.
- 7) Shall have operating hours not earlier than 10:00 A.M. and not later than 7:00 P.M.
- 8) Drive-through services are prohibited.

B. Medical Marijuana Infusion Manufacturing Facility

- 1) Applicant shall provide:
 - a. Name and location of the offsite cultivation location, if applicable.
 - b. A copy of the operating procedures adopted in compliance with A.R.S. 36--2804(B)(1)(c).
 - c. A survey sealed by a registered land surveyor showing the location of the nearest medical marijuana dispensary or cultivation location if within 200 feet.

- 2) Shall not be located within 200 feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are being conducted or proposed to be conducted.
- 3) Shall not be located within 200 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the residentially zoned property.
- 4) Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school; or within 200 feet of a place of worship, public-park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.
- 5) There shall be no emission of dust, fumes, vapors, or odors into the environment from the facility.

C. Any such other uses which are determined by minute order of the planning and zoning commission to be similar to those uses listed in this section and not detrimental to the public health, safety and general welfare.

Any such other uses which are determined by minute order of the planning and zoning commission to be similar to those uses listed in this section and not detrimental to the public health, safety and general welfare.

Medical Marijuana Dispensary

A non-profit entity defined in A.R.S. 36-2801 (11), that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients.

A. Medical Marijuana Dispensary (No Cultivation), subject to the following conditions and limitations:

1. Applicant shall provide:
 - a. the name(s) and location(s) of the offsite medical marijuana dispensary associated with the cultivation operation.
 - b. a copy of the operating procedures adopted in compliance with A.R.S. 36--2804(B)(1)(c) and
 - c. a survey sealed by a registered land surveyor showing the location of the nearest medical marijuana dispensary or cultivation location if within 200 feet.
 - d. a site plan, floor plan, building permits for occupancy change, and a security plan.
2. Shall be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
3. Shall not be larger than a maximum of 1000 gross square feet.

4. Shall not be located within 200 feet of the same type of use. This distance shall be measured from the exterior walls of the building or portion thereof in which the businesses are being conducted or proposed to be conducted.
 5. Shall not be located within 200 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the residentially zoned property.
 6. Shall not be located within 500 feet of a preschool, kindergarten, elementary, secondary or high school; or 200 feet of a place of worship, public-park or community center. This distance shall be measured from the exterior walls of the building or portion thereof in which the cultivation business is conducted or proposed to be conducted to the property line of the protected use.
 7. Shall have operating hours not earlier than 10:00 a.m. and not later than 7:00 p.m.
 8. Drive-through services are prohibited.
 9. Cultivation of medical marijuana is prohibited.
 10. Shall provide for proper disposal of marijuana remnants or by-products, and not to be placed within the facility's exterior refuse containers.
- B. Any such other uses which are determined by minute order of the planning and zoning commission to be similar to those listed in this section and not detrimental to the public health, safety and general welfare.

PROPOSED ORDINANCE

ORDINANCE NO. 2021-002

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF SPRINGERVILLE, ARIZONA, RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROHIBITING MARIJUANA ON PUBLIC PROPERTY; ESTABLISHING REGULATIONS FOR PERSONAL USE AT AN INDIVIDUAL'S PRIMARY RESIDENCE; AUTHORIZING RETAIL SALES FROM MARIJUANA AND MARIJUANA PRODUCTS; IMPOSING FEES; AMENDING TITLE 17 (ZONING) OF THE CODE OF SPRINGERVILLE, ARIZONA BY ADDING NEW SECTION 17.28.220 (MARIJUANA ESTABLISHMENTS AND OTHER MARIJUANA-BASED LAND USES) TO CHAPTER 17.28 (GENERAL PROVISIONS), AMENDING CHAPTER 17.68 (C-1 ZONE, GENERAL COMMERCIAL) SECTION 17.68.030 (CONDITIONAL USES (CONDITIONAL USE PERMIT REQUIRED)) BY REPLACING PARAGRAPH V, AND AMENDING CHAPTER 17.76 (I-1 ZONE, INDUSTRIAL) SECTION 17.76.030 (CONDITIONAL USES (CONDITIONAL USE PERMIT REQUIRED)) BY REVISING PARAGRAPHS A AND B; SETTING FORTH VIOLATIONS; AND PROVIDING FOR ENFORCEMENT AND PENALTIES.

WHEREAS, marijuana contains tetrahydrocannabinol ("THC"), which remains on Schedule I of the Controlled Substances Act pursuant to 21 U.S.C. § 811 et al. and any possession and use is a violation of federal law pursuant to 21 U.S.C. § 841 et. al.;

WHEREAS, the Arizona Medical Marijuana Act, Arizona Revised Statutes Sections § 36-2801 et al., and Title 9, Chapter 17 of the Arizona Administrative Code allow the establishment and operation of nonprofit medical marijuana dispensaries in Springville according to a prescribed statutory and regulatory process;

WHEREAS, the statewide ballot measure I-23-2020, known as "Smart and Safe Arizona Act" has been certified as Proposition 207 and placed on the November 3, 2020 general election ballot and contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults over 21 years of older; allowing a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allowing the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants;

WHEREAS, the Town of Springerville finds that Proposition 207 authorizes marijuana establishments to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the health, safety

and security of the community and increases the responsibilities of law enforcement and other Town departments to respond to violations of state and local laws, including building, electrical and fire codes; and

WHEREAS, the Town of Springerville seeks to protect public health, safety, and welfare by enacting reasonable zoning regulations to limit the number of marijuana establishments and/or marijuana testing facilities in the Town of Springerville;

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Springerville, Arizona, as follows:

SECTION I. In General. Title 17 (Zoning) Chapter 17.28 (General Provisions) of the Code of Springerville, Arizona, is hereby amended by adding a new Section 17.28.220, entitled "MARIJUANA ESTABLISHMENTS AND OTHER MARIJUANA-BASED LAND USES" to read as follows:

- (1) Purpose. This regulation is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the Town enacts reasonable regulations and requires compliance with zoning laws for the retail sale, cultivation and manufacturing of marijuana or marijuana products in a marijuana establishment or marijuana testing facility and the cultivation, processing and manufacturing of marijuana in a primary residence. Nothing in this regulation is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of marijuana or marijuana products in violation of any applicable law.
- (2) Definitions. The below words and phrases, wherever used in this title, shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.
 - A. "*Chemical Extraction*" means the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
 - B. "*Chemical Synthesis*" means production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.
 - C. "*Consume*," "*Consuming*," and "*Consumption*" mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.
 - D. "*Consumer*" means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
 - E. "*Cultivate*" and "*Cultivation*" mean to propagate, breed, grow, prepare and package marijuana.

- F. “*Deliver*” and “*Delivery*” mean the transportation, transfer or provision of marijuana or marijuana products to a consumer at a location other than the designated retail location of a marijuana establishment.
- G. “*Department*” means the State of Arizona Department of Health Services or its successor agency.
- H. “*Dual Licensee*” means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
- I. “*Enclosed Area*” means a building, greenhouse, or other structure that has:
1. A complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof;
 2. Is secure against unauthorized entry;
 3. Has a foundation, slab or equivalent base to which the floor is securely attached; and
 4. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of not being visible from public view without using binoculars, aircraft or other optical aids and is equipped with a lock or other security device that prevents access by minors.
- J. “*Extraction*” means the process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.
- K. “*Manufacture*” and “*Manufacturing*” mean to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
- L. “*Marijuana*”
1. Means all parts of the plant of the genus *cannabis*, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.
 2. Includes *cannabis* as defined in A.R.S. § 13-3401.
 3. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus *cannabis*, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.
- M. “*Marijuana Concentrate:*”
1. Means resin extracted from any part of a plant of the genus *cannabis* and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.

2. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

N. "*Marijuana Establishment*" means an entity licensed by the Department to operate all of the following:

1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
3. A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

O. "*Marijuana Products*" means marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

P. "*Marijuana Testing Facility*" means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.

Q. "*Nonprofit Medical Marijuana Dispensary*" means a nonprofit entity as defined in A.R.S. § 36-2801(12).

R. "*Open Space*" means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.

S. "*Person*" means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.

T. "*Process*" and "*Processing*" means to harvest, dry, cure, trim or separate parts of the marijuana plant.

U. "*Public Place*" has the same meaning prescribed in the Smoke-Free-Arizona Act, A.R.S. § 36-601.01.

V. "*Smoke*" means to inhale, exhale, burn, carry or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

(3) Marijuana Prohibited on Public Property.

- A. The use, sale, cultivation, manufacture, production or distribution of marijuana or marijuana products is prohibited on property that is occupied,

owned, controlled, or operated by Town, unless as approved by the Town Council.

B. It is unlawful for an individual to smoke marijuana in a public place or open space in Town.

(4) Marijuana Establishments Permitted; Nonresidential. If authorized by state law and a valid permit has been obtained from the Town, a marijuana dispensary establishment is permitted in Town subject to the following conditions and limitations:

- A. Shall not be more than three (3) marijuana establishments operating in Town.
- B. Shall be authorized in General Commercial zoning districts.
- C. Shall not be located within 200 feet of a residentially zoned property. This distance shall be measured in a straight line from the exterior walls of the building or portion thereof in which the marijuana business is conducted or proposed to be conducted to the property line of the residentially zoned property.
- D. Shall not be located within five hundred (500) feet of the same type of use or a nonprofit medical marijuana dispensary. This distance shall be measured from the lot line of the property in which the businesses are conducted or proposed to be conducted.
- E. Shall not be located within five hundred (500) feet of a preschool, kindergarten, elementary, secondary or high school, place of worship, public park, public cemetery or community center. This distance shall be measured from the lot line of the property in which the business is conducted or proposed to be conducted to the property line of the protected use.
- F. Shall be located in a permanent building on an established foundation adhering to Town building codes and shall not include any temporary, portable or self-powered mobile facilities, or trailer, cargo container or motor vehicle.
- G. Shall be a total maximum five thousand (5,000) square feet.
- H. Shall have operating hours of not earlier than 7 a.m. and not later than 7 p.m.
- I. Shall not provide drive-thru services or offsite deliveries of marijuana or marijuana products.
- J. Shall not allow a person to consume marijuana or marijuana products on the premises or provide outdoor seating areas.

- K. Shall provide for proper disposal of marijuana remnants or by-products. The remnants or by-products shall not be placed within the facility's exterior refuse containers, Town trash can, bin or other Town facility, or in any park refuse container unless authorized by the Town.
 - L. Shall not emit dust, fumes, vapors or odors into the environment from the facility and shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes of Town.
 - M. Shall not sell marijuana or marijuana products, except as permitted by state law to consumers.
 - N. Shall not display or keep marijuana or marijuana products that are visible from outside the premises.
 - O. Shall comply with applicable county health regulations for food preparation and handling.
 - P. Shall comply with applicable laws to safely and securely engage in extraction processes.
 - Q. Shall submit a written security plan to the Town that describes the actions taken to deter and prevent unauthorized entrance into limited access areas including use of security equipment, exterior lighting to facilitate surveillance, and electronic monitoring such as video cameras.
- (5) Individual's Primary Residence for Personal Use. To the fullest extent allowable by law, marijuana possession, consumption, processing, manufacturing, transportation, and cultivation is permitted in a residential zoning district in Town and is subject to the following conditions and limitations:
- A. It shall be unlawful for any individual who is at least twenty-one (21) years of age to possess, transport, cultivate or process more than six (6) marijuana plants.
 - B. It shall be unlawful for two or more individuals who are at least twenty-one (21) year of age to possess, transport, cultivate or process more than twelve (12) marijuana plants at the individuals' primary residence.
 - C. Except as provided by A.R.S. § 36-2801 et al. and this Section, it shall be unlawful for an individual to otherwise cultivate marijuana in a residential zoning district within the Town limits.
 - D. Individuals shall not process or manufacture marijuana by means of any liquid or gas other than alcohol, that has a flashpoint below one hundred (100) degrees Fahrenheit.

- E. Kitchen, bathrooms, and primary bedroom(s) shall be used for their intended use and shall not be used primarily for residential marijuana processing, manufacturing, or cultivation.
 - F. A residence shall not emit dust, fumes, vapors, or odors into the environment and individuals shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes of Town.
 - G. Cultivation shall be limited to a closet, room, greenhouse, or other enclosed area on the grounds of the residence equipped with a lock or other security device that prevents access by minors.
 - H. Cultivation shall take place in an area where the marijuana plants are not visible from public view without using binoculars, aircraft, or other optical aids.
- (6) Retail Sales from Marijuana and Marijuana Products. To the fullest extent allowable by law, the sale of marijuana and marijuana products is authorized within the Town from a marijuana establishment and is tangible personal property as defined in A.R.S. § 42-5001 and subject to the transaction privilege tax in the retail classification and use tax.
- (7) Fees. The fee for the permits shall be established by resolution and included in the Town Fee Schedule.
- (8) Violations.
- A. It is unlawful and a violation of this title for a person to sell, cultivate, process, manufacture or transport marijuana or marijuana products if the person fails to meet all the requirements in this article or state law, including the Department's rules.
 - B. It is a violation of this title for any person to provide false information on any permit application.
 - C. Each day any violation of any provision of this article shall continue shall constitute a separate offense.
- (9) Enforcement; Penalties.
- A. The cultivation, dispensary, infusion, manufacturing, or testing permit may be revoked by the Town for violation of any provision of this article, for any violation of the requirements of the permit, or if the Department revokes the license for a marijuana establishment or marijuana testing facility. If a permit is revoked, the permittee shall have the right to appeal the decision of the Town to the Board of Adjustment as outlined in Chapter 17.92 of the Town Code.

- B. Violations of this title are in addition to any other violation enumerated within the Town ordinances or the Town Code and in no way limits the penalties, actions or abatement procedures which may be taken by the Town for any violation of this title, which is also a violation of any other ordinance or Code provision of the Town or federal or state law. Conviction and punishment of judgment and civil sanction against any person under this article shall not relieve such person from the responsibility of correcting prohibited conditions, or removing prohibited structures or improvements, and shall not prevent the enforced correction or removal thereof.

SECTION II. C-1 Zone, General Commercial. Title 17 (Zoning) Chapter 17.68 (C-1 Zone, General Commercial) Section 17.68.030 (Conditional uses (conditional use permit required)) of the Code of Springerville, Arizona, is hereby amended by deleting existing paragraph V (Medical Marijuana Dispensary) and its subsections and replacing it with: "V. Marijuana Establishment (no cultivation), subject to the requirements of Section 17.28.220 (Marijuana Establishments and Other Marijuana-Based Land Uses)."

SECTION III. I-1 Zone, Industrial. Title 17 (Zoning) Chapter 17.76 (I-1 Zone, Industrial) Section 17.76.030 (Conditional uses (conditional use permit required)) of the Code of Springerville, Arizona, is hereby amended by revising paragraphs A and B as follows (with strikeouts denoting deletions and double underlining denoting additions):

- A. ~~Medical~~-Marijuana Cultivation, subject to applicable requirements of Section 17.28.220 (Marijuana Establishments and Other Marijuana-Based Land Uses) and the following additional conditions and limitations:

(1) Applicant shall provide:

- a. The name(s) and location(s) of the off-site ~~medical~~ marijuana establishment(s) associated with the cultivation operation.
- b. A copy of the operating procedures adopted in compliance with this Title and applicable state law A.R.S. 36-2804.B.1.e.
- c. A survey sealed by a registered land surveyor showing the location of the nearest ~~medical~~ marijuana establishment ~~dispensary~~ or cultivation location if within two hundred (200) feet.

[Subparagraphs (2) through (8) are unchanged]

- B. ~~Medical~~-Marijuana Infusion Manufacturing Facility, subject to applicable requirements of Section 17.28.220 (Marijuana Establishments and Other Marijuana-Based Land Uses) and the following additional conditions and limitations:

(1) Applicant shall provide:

- a. Name and location of the marijuana establishment(s) and offsite cultivation location(s), if applicable, associated with the marijuana infusion manufacturing facility.
- b. A copy of the operating procedures adopted in compliance with this Title and applicable state law-A.R.S. 36-2804.B.1.e.
- c. A survey sealed by a registered land surveyor showing the location of the nearest ~~medical~~ marijuana establishment dispensary or cultivation location if within two hundred (200) feet.

[Subparagraphs (2) through (5) are unchanged]

C. [Paragraph C is unchanged]

SECTION IV. Providing for Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

SECTION V. Recitals. The recitals above are fully incorporated in this Ordinance by reference.

SECTION VI. Effective Date, Emergency. Because of the urgent need for the implementation of the Town's regulations concerning recreational marijuana, the immediate operation of this Ordinance is necessary for the preservation of the health, safety, and general welfare. An emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and Council as required by law.

SECTION VII. Zoning Considerations. In accordance with Article II, Sections 1 and 2, Constitution of Arizona, the Town Council has considered the individual property rights and personal liberties of the residents of the Town before adopting this ordinance.

SECTION VIII. Preservation of Rights and Duties. This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

SECTION IX. Providing for Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Common Council of the Town of Springerville, Arizona, this ____ day of _____, 2021, by the following vote:

AYES: _____

NAYES: _____ ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

APPROVED this ____ day of _____, 2021.

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

I, KELSI MILLER, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THIS ORDINANCE NO. 2021-001, ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF SPRINGERVILLE ON THE ____ DAY OF _____, 2021, WAS POSTED IN THREE PLACES ON THE ____ DAY OF _____, 2021.

Town Clerk